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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,015	02/23/2004	Yuan-Hui Tsai	TSAI3096/EM	7495

23364 7590 09/28/2004

BACON & THOMAS, PLLC  
625 SLATERS LANE  
FOURTH FLOOR  
ALEXANDRIA, VA 22314

EXAMINER

MORRISON, NASCHICA SANDERS

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/783,015

Applicant(s)

TSAI, YUAN-HUI

Examiner

Naschica S Morrison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is the first Office Action for serial number 10/783,015, Christmas Tree Stand, filed on February 23, 2004. Claims 1-4 are pending.

#### ***Priority***

Applicant is advised of possible benefits under 35 U.S.C. 119(a)-(d), wherein an application for patent filed in the United States may be entitled to the benefit of the filing date of a prior application filed in a foreign country.

Receipt is acknowledged of a certified copy of the Chinese 2003201251428 application. However, no reference to the foreign application was found in the oath or in the application data sheet. If this copy is being filed to obtain the benefits of the foreign filing date under 35 U.S.C. 119(a)-(d), applicant should also file a claim for such priority as required by 35 U.S.C. 119(b). If the application being examined is an original application filed under 35 U.S.C. 111(a) (other than a design application) on or after November 29, 2000, the claim for priority must be presented during the pendency of the application, and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. See 37 CFR 1.55(a)(1)(i). If the application being examined has entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35 U.S.C. 371, the claim for priority must be made during the pendency of the application and within the time limit set forth in the PCT and Regulations of the PCT. See 37 CFR 1.55(a)(1)(ii). Any claim for priority under

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35 U.S.C. 119(a)-(d) or (f) or 365(a) or (b) not presented within the time period set forth in 37 CFR 1.55(a)(1) is considered to have been waived. If a claim for foreign priority is presented after the time period set forth in 37 CFR 1.55(a)(1), the claim may be accepted if the claim properly identifies the prior foreign application and is accompanied by a grantable petition to accept an unintentionally delayed claim for priority. See 37 CFR 1.55(c).

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Specification***

The disclosure is objected to because of the following informalities: on page 4, line 19, "blot" should be --bolt--; on page 5, line 24, "engagement" should be --engagements--; on page 6, line 2 "collars" should be --collar--; on page 8, on line 7 "lower collars" should be --second collars--. Appropriate correction is required.

### ***Drawings***

Figures 1A and 2A should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: numerals 8 and 10 on page 2.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: references A-A and B-B in Figures 5A and 6A.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 2 is objected to because of the following informalities: on line 1, "blot" should be --bolt--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "the auxiliary tube" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the upper collar" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,763,866 to Sinchok. Sinchok discloses a stand (fig. 2) comprising: a main frame including a main tube (19) having upper and lower shoulders (upper and lower horizontal surfaces of 19) and a pair of first supporting legs (11, 15); an auxiliary frame (13, 18, 21, 23) configured with first

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and second collars (21, 23) which can be enveloped onto the upper and lower shoulders and a pair of second supporting legs (13, 18); wherein the upper collar (21) further includes an inwardly extending flange (at 21 generally) and the flange rests onto an upper edge of the upper shoulder.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sinchok in view of U.S. Patent 5,290,004 to Frost et al. (Frost). With regards to claim 2, Sinchok discloses the stand as applied above and further teaches the main tube (19) and auxiliary frame being locked into a desired position by a detent (20) or other locking or retention means (col. 3, lines 1-7). Sinchok does not disclose the other locking or retention means being a bolt. Frost teaches a stand having a main tube (2) and auxiliary frame (8 generally) lockable into a desired position by a bolt (24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have substituted the bolt of Frost for the detent of Sinchok as inherently suggested by Sinchok since detents and bolts are well known for their use in the fastening art and the selection of any

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of these known equivalents to releasably secure the main tube to the auxiliary frame would be within the level of ordinary skill in the art.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: 4288052 to Scott; 4406437 to Wright; 4454859 to Vincent; 5022620 to Scott; D342694 to Frost; Re. 36640 to Frost et al; 6138977 to Tsai; 6293512 to Ho; 6491266 to Chen

The above references disclose stands relevant to the present invention.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 306-1113.

  
Naschica S. Morrison  
Patent Examiner  
Art Unit 3632  
9/24/04

  
RAMON O. RAMIREZ  
PRIMARY EXAMINER